



US Army Corps
of Engineers
Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: SPK-2007-00353

Date: November 23, 2007

Comments Due: December 22, 2007

In reply, please refer to the Public Notice Number

SUBJECT: The U.S. Army Corps of Engineers, Sacramento District, (Corps) is evaluating a permit application to construct the Provo/Jordan River Parkway project, a Utah County Public Works trail project, which would result in impacts to approximately 8.26 acres of waters of the United States, including wetlands, in or adjacent to Utah Lake. This notice is to inform interested parties of the proposed activity and to solicit comments. This notice may also be viewed at the Corps web site at <http://www.spk.usace.army.mil/regulatory.html>.

AUTHORITY: This application is being evaluated under Section 404 of the Clean Water Act for the discharge of dredged or fill material in waters of the United States and under Section 401 for state water quality certification.

APPLICANT: Paul Hawker
Utah County Public Works
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Provo, Utah 84606-6502
Tel: 801.851.8600

AGENTS: Andy Herb
Alpine Ecological Resources, LLC
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LOCATION: The approximately 14.5-mile trail project starts north of Utah Lake and east of the Jordan River near Dry Creek in Section 30, Township 5 South, Range 1 East, SLB&M. The project ends south of Powell Slough (on the east side of Utah Lake) in Section 33, Township 6 South, Range 2 East SLB&M, in Utah County, Utah, and can be seen on the Saratoga Springs, Pelican Point, and Orem, Utah USGS 7.5 minute Topographic Quadrangles. Figure 1 shows the project area.

PROJECT DESCRIPTION: The applicant is proposing to construct a 14.5-mile public recreational trail along the north and east shore of Utah Lake. The typical trail cross section would consist of a 20-foot wide right-of-way, 15-foot wide base, and a 10-foot wide trail surface (Figure 2). The trail would connect the Jordan River Parkway Trail system to the Provo River Trail.

Based on available information, the basic project purpose is to build a trail. The overall project purpose is to build a recreational trail in Utah County, Utah.

The applicant believes there is a need to enhance recreational opportunities of Utah Valley and Salt Lake Valley residents, to preserve open space, to provide environmental educational opportunities, and to protect the environment around Utah Lake, by building a recreational trail system. Panels 1 thru 10 and Figures 1 and 2 provide additional project details.

ADDITIONAL INFORMATION:

Environmental Setting. The trail corridor is located adjacent to Utah Lake, and is situated within the lake floodplain along the north side of the lake and near Provo. Trail elevations range from approximately 4,490 feet to 4,505 feet above mean sea level. The proposed trail through Lindon, Vineyard, and Orem is located on a terrace out of the Utah Lake floodplain. The trail corridor crosses open space (including residential parks and the Orem Golf Course), agricultural lands, the Timpanogos Special Services District wastewater treatment facility, lands adjacent to surface streets, and commercial and industrial lands.

Aquatic resources within the proposed corridor include approximately 5.25 acres of wet meadow wetlands, 2.97 acres of shallow marsh wetlands, 0.02 acre of deep marsh wetlands, and 0.02 acre of scrub-shrub wetlands within the project's permanent impact footprint (total delineated acreage is 7.19 acres). Approximately 1.9 miles of the proposed trail corridor were inaccessible for field survey due to denied access from landowners. The applicant estimates that there are approximately 1.07 acres of wetlands, based on available aerial photography, National Wetlands Inventory wetlands data, and Natural Resources Conservation Service soils data. Some of the wetlands located outside of the proposed trail corridor appear in Panels 1 thru 10. These wetland boundaries were assessed by the applicant's agent using direct observations of vegetation and hydrology during the wetland delineation. The wetland assessment acreage was not quantified by the County. At a minimum, the County will be required to delineate the inaccessible areas prior to issuance of a Department of the Army permit, so that the Corps may determine the extent of wetland impacts along the proposed alignment.

Alternatives. The applicant has provided information concerning project alternatives. Additional information concerning project alternatives may be available from the applicant or their agent. Other alternatives may develop during the review process for this permit application. All reasonable project alternatives, in particular those which may be less damaging to the aquatic environment, will be considered.

In general the applicant considered the following approaches in considering alternative alignments:

- Balance of wetland and private property avoidance (applicant-preferred).
- Maximum avoidance of wetlands.
- Maximum avoidance of private property.
- Most direct route.

The County has stated that the proposed alignment is the alternative that balances both wetland and private property avoidance. However, the applicant did not supply drawings of other considered alignments in order for the Corps to evaluate the application.

Wetland and private property avoidance (applicant-preferred): The "wetland and private property avoidance" alternative is the applicant's preferred alternative. Under this alternative, approximately 4.18 acres of wet meadow wetlands, 2.97 acres of shallow marsh wetlands, 0.02 acre of deep marsh wetlands,

and 0.02 acre of scrub-shrub wetlands within the project's permanent impact footprint (total delineated acreage is 7.19 acres). However, Utah County could not obtain permission to access approximately 10,000 linear feet (1.9 miles) of the proposed corridor. Based on available aerial photography, National Wetlands Inventory wetlands data, and Natural Resources Conservation Service soils data, the County estimated that an additional 1.07 acres of wetlands occur within the un-delineated areas. The potential wetland impacts may be slightly higher when the inaccessible areas are delineated, but the County estimates that approximately 8.26 acres of permanent impacts would result from the proposed project.

Temporary wetland impacts were not disclosed by the applicant, however the Corps has calculated a conservative estimate of approximately 2.75 acres of temporary impacts (one-third of the permanent impacts), based on the applicant's proposed 15-foot wide typical trail cross section and 20-foot right-of-way.

According to the applicant, they have selected the alignment that has the least impact to waters of the U.S., balancing considerations of wetland avoidance, private property avoidance and cost. The selected alignment also utilizes existing trails and roads where practicable.

Maximum avoidance of wetlands: The applicant did not select the "maximum avoidance of wetlands" alternative because this alternative was costly and did not meet the project purpose. According to the applicant, this alternative would have fewer impacts to waters of the U.S., but the cost to acquire land being used for farming, grazing and residential development would make the cost prohibitive. Further, the applicant believes the trail would be so far from Utah Lake that it would not meet the County-stated project purposes of lakeside habitat preservation and lake-based recreational/educational opportunities.

Maximum avoidance of private property: Maximum avoidance of private property would push the trail into wetlands directly abutting Utah Lake. The applicant did not select the "maximum avoidance of private property" alternative because it would result in greater wetland impacts.

Most direct route: The "most direct route" alternative was not selected due to greater wetland impacts and increased land acquisition costs. According to the applicant, this alternative would have greater impacts to waters of the U.S. than the preferred alternative and the cost to acquire land currently used for farming, grazing and residential development would make the cost prohibitive. Again, the applicant states this trail route would be so far away from Utah Lake that it would not meet the applicant-stated purposes of lakeside habitat preservation and lake-based recreational and educational opportunities.

Mitigation. The Corps requires that applicants consider and use all reasonable and practical measures to avoid and minimize impacts to aquatic resources. If the applicant is unable to avoid or minimize all impacts, the Corps may require compensatory mitigation.

Avoidance and Minimization Measures: The County used aerial photography and NWI maps to select the preliminary path alignment. The trail alignment was subsequently refined by utilizing previously disturbed areas (over undisturbed areas), by rerouting the alignment based on the wetland delineation field data, and by minimizing the footprint of the proposed path. The County is also committed to using construction best management practices during trail construction. Avoidance and minimization measures and construction BMPs are summarized in Exhibit A.

Compensatory Mitigation: To compensate for the anticipated project impacts of 8.26 acres, the applicant proposes to purchase and preserve 150 acres of wetlands that the applicant believes to be under imminent threat of development. These wetlands are also currently under either a grazing or crop management system, and these activities would be eliminated from the preserved area. Within the preserve area, there are several highly unique fen habitats. Many of the fens in Utah County have been filled pre-Clean Water Act or under permits issued by the Corps. These fens are located on private lands abutting Utah Lake. The County has also acquired a 30-acre parcel that contains approximately 10 acres of deep marsh habitat abutting Utah Lake near the Timpanogos SSD wastewater treatment facility.

The applicant has yet to prepare a compensatory mitigation plan, but has outlined the following mitigation concepts for consideration by the Corps and the public:

- Fen preservation and restoration within the 150 acres of preserved wetlands
- Preservation of the 30-acre parcel and associated deep marsh wetland habitat.

Additional mitigation details are available upon request from the Corps or the applicant's agent.

OTHER GOVERNMENTAL AUTHORIZATIONS: Under Section 401 of the Clean Water Act, water quality certification or a waiver is required for this project from the Utah Division of Water Quality. The Utah Division of Water Quality intends to issue certification provided that the proposed work will not violate applicable water quality standards. Projects are usually certified where the project may create diffuse sources (non-point sources) of wastes which will occur only during the actual construction activity and where best management practices would be employed to minimize pollution effects. Written comments on water quality certification should be submitted to Ms. Shelly Quick, Utah Division of Water Quality, 288 North 1460 West, P.O. Box 144870, Salt Lake City, UT 84114-4870, on or before **December 22, 2007**.

HISTORIC PROPERTIES: The applicant has conducted a file search of cultural and historic resources for the entire study area. The file search was conducted on November 29, 2006, and a pedestrian survey was conducted on March 19-21, 2007. According to the applicant, the survey documented no new sites. The applicant submitted its cultural resources report to the Utah State Historic Preservation Office on April 12, 2007. They have not yet received a response from the Utah SHPO. The Corps will initiate consultation with the State Historic Preservation Officer under Section 106 of the National Historic Preservation Act, as appropriate.

ENDANGERED SPECIES: The proposed activity may affect Federally-listed endangered or threatened species or their critical habitat. The applicant has acknowledged that suitable habitat for the Ute ladies'-tresses orchid (*Spiranthes diluvialis*) is present at 5 locations along the proposed alignment. The applicant surveyed these locations in late August 2006 and again during the summer of 2007. According to the applicant's survey results, no plants were found during the survey. The Corps will initiate consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, as appropriate.

ESSENTIAL FISH HABITAT: The proposed project will not adversely affect Essential Fish Habitat (EFH) as defined in the Magnuson-Stevens Fishery Conservation and Management Act.

The above determinations are based on information provided by the applicant and our preliminary review.

EVALUATION FACTORS: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the described activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the described activity will be considered, including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people. The activity's impact on the public interest will include application of the Section 404(b)(1) guidelines promulgated by the Administrator, Environmental Protection Agency (40 CFR Part 230).

The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity.

Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

SUBMITTING COMMENTS: Written comments, referencing Public Notice SPK-2007-00353 must be submitted to the office listed below on or before **December 22, 2007**.

James McMillan, Project Manager
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, Utah 84010
Email: james.m.mcmillan@usace.army.mil

The Corps is particularly interested in receiving comments related to the proposal's probable impacts on the affected aquatic environment and the secondary and cumulative effects. Anyone may request, in writing, that a public hearing be held to consider this application. Requests shall specifically state, with particularity, the reason(s) for holding a public hearing. If the Corps determines that the information received in response to this notice is inadequate for thorough evaluation, a public hearing may be warranted. If a public hearing is warranted, interested parties will be notified of the time, date, and location. Please note that all comment letters received are subject to release to the public through the Freedom of Information Act. If you have questions or need additional information please contact the applicant or the Corps' project manager, James McMillan, by telephone at 801-295-8380 ext. 17, or by email: james.m.mcmillan@usace.army.mil.

Attachments:

Figure 1 – Project Area

Figure 2 – Typical Trail Section

Panels 1 thru 10 – Delineated Project Corridor and Wetlands Assessment

Exhibit A – Avoidance and Minimization Measures and Construction BMPs